

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUAN DAVILA-BAJANA,

Plaintiff,

v.

JAMES F. SHERMAN, et al.,

Defendants.

Civil Action No. 06-197 Erie

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on September 1, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Amended Report and Recommendation [Doc. No. 22], filed on August 20, 2007, recommended that Defendants' motion to dismiss or in the alternative for summary judgment [Doc. No. 14] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Plaintiff was granted an extension until September 17, 2007 to file objections [Doc. No. 23]. Plaintiff filed objections on September 20, 2007 [Doc. No. 25]. After de novo review of the motion and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 4<sup>th</sup> day of December, 2007;

IT IS HEREBY ORDERED that the Defendants' motion to dismiss or in the alternative for summary judgment [Doc. No. 14] is GRANTED.

The Report and Recommendation [Doc. No. 22] of Magistrate Judge Baxter, filed on August 22, 2007, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record

Susan Paradise Baxter, U.S. Magistrate Judge